IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 22720 of 2004

Between:

1) Smt. P.D Laxmi, W/o. Sri Janapa Reddy,
R/o. 2-1-555/2/B, Nallakunta, Hyderabad. Rep by her GPA Holder,

Mr.P. Janapa Reddy, S/o. P. Narsi Reddy, aged 50 years, Occ :

Business, R/o. 2-1-555/2/B, Nallakunta, Hyderabad.

2) Y. Yagna Narayan Reddy, S/o. K. Picha Reddy,
R/o. Gurappagudem Village, Vemunapalli Mandal, Nalgonda

District, Nalgonda District, Rep by his GPA holder K. Rami Reddy,

S/o. Piccha Reddy, aged 58 years, R/o. 21-555/2/B, Nallakunta,

Hyderabad.

... PETITIONERS

AND

1) Revenue Divisional Officer Cum Sub Divisional Magistrate, R.R.

District, East Division, at Malakunta Road, Goshamahal, Hyd.
2) Sri V. Sheshamma, S/o. Late V. Venkateshwarlu, Major,
R/o. 11-24, Sowbhagyamma Telephone Colony, Sriram Krishna

Puram, Saroornagar Revenue Mandal, R.R. District.
3) Sri V.S.K. Raju, S/o. Late V. Venkateshwarlu, Major,
R/o. 11-24, Sowbhagyamma Telephone Colony, Sriram Krishna

Puram, Saroornagar Revenue Mandal,R.R. District.
4) Sri V.L Raju, S/o. Late V. Venkateshwarlu, Major,
R/o. 11-24, Sowbhagyamma Telephone Colony, Sriram Krishna

Puram, Saroornagar Revenue Mandal, R.R. District.
5) Smt. Sridevi, W/o. Late V. Venkateshwarlu, Major,
R/o. 11-24, Sowbhagyamma Telephone Colony, Sriram Krishna

Puram, Saroornagar Revenue Mandal, R.R. District.

6) Posham Ram Das, S/o. Sri Achaiah,
R/o. H.No. 4-10-31/B2, DVK Road, Nalgonda - 508 001.
7) Smt. Jalla Manemma, W/o. Sri J. Markendeya,
R/o. H.No. 4-10-32/B2, Sreeramnagar, Nalgonda.
8) Smt. P. Padma, W/o. Sri Shiva Raju,
R/o. H.No. 2-2-645/C/1, Bagh Amberpet, Hyderabad.
9) Smt. P. Padma, W/o. A. Ramesh,
R/o. H.No. 2-2-645/C/1, Amberpet, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue notice call for records, quash and set aside the impugned order No. L/1433/2004, dt. 20.11.2004, passed by the 1st respondent herein holding that the two disputed plots No. 23&25-A measuring 500 Sq. Yards each are located in Sy.No. 9/1/F but not in Sy.No. 10 of Saroornagar (v) and Mandal and further directed to maintain the alleged possession of the Respondent No.6 to 9 over the said house plots is without there being any jurisdiction, power or authority to adjudicate the claim under Section 145 of Crl. PC While OS.No. 873/2004 & OS.No.949/2004 instituted by the petitioners herein for permanent injunction on the file of the principal Junior Civil Judge, (E&N), R.R. District directed to maintain status quo over the Suit Scheduled Property held by the Petitioners in I.A.No. 1962/2004 dt. 21.06.2004 in OS.No. 873/2004 and I.A.No. 2124/2004 dt. 29.06.2004, in O.S.No. 949/2004 and the orders dt. 23.07.2004, made in I.A.No. 2179/2004 in OS.No. 873/2004 appointing Mr. Kiran Kanth Reddy as Advocate Commissioner to localize the suit schedule property with the Assistance of the Assistant Director of Survey & Land Records at the instance of Respondent No.2 to 9, apart from being violative of Article 19(1) (g), 300-A of the Constitution of India and amount to encroachment of the subject matter seized by the Hon'ble High Court in Criminal Petition No. 5324/2004, and also hit the Judgments rendered by the Hon'ble Supreme Court of India, reported in AIR 1985 S.C. 472 & 2000 Crl.L.J 2226 and to quash and set aside the same by issuance of a writ more particularly a writ in the nature of a writ of Certiorari or any other appropriate writ or order as the Hon'ble Court be deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.CH.RAMESH BABU

Counsel for the Respondent No.1: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed questioning the order dated 20.11.2004 passed under Section 145 of Criminal Procedure Code (Cr.P.C) by the Revenue Divisional Officer-Cum-Sub Divisional Magistrate, Ranga Reddy District.

2. The main contention of the learned counsel for the petitioner is that since a civil dispute is pending between the parties, the Revenue Divisional Officer was in error in exercising jurisdiction under Section 145 Cr.P.C. He places strong reliance on **Ram Sumer Puri Mahant Vs. State of U.P and Others** and **Amresh Tiwari Vs.Lalta Prasad Dubey** in support of his said contention. It is his contention that since the order of the Sub Divisional Magistrate is contrary to the order passed by Civil Court, this Court can interfere under Article 226 of the Constitution of India.

3. The contention of the learned Government Pleader appearing for the first respondent is that since the petitioner has an alternative remedy of revision or filing a petition for quashing proceedings under Section 482 Cr.P.C and since the averments in the affidavit show that the petitioners have already approached this Court for quashing proceedings, this petition is not maintainable.

4. It is well known that any order passed under Section 145 Cr.P.C can be challenged in a revision before the Sessions Court or High Court and if the proceedings are unwarranted, the aggrieved party can approach the High Court under Section 482 Cr.P.C. Instead of invoking remedies open to the petitioner available under Cr.P.C, petitioner erred in approaching this Court under Article 226 of the Constitution of India. Since, such an approach should be deprecated this petition is liable to be dismissed.

5. Therefore, the petition is dismissed with a direction to petitioner to avail the remedies open to him under Cr.P.C. No costs.

C.Y.SOMAYAJULU, J

Dated : 15.03.2005

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To

1)The Revenue Divisional Officer Cum Sub Divisional Magistrate, R.R. District, East Division, at Malakunta Road, Goshamahal, Hyd.
2) 2 CCs to G.P for Revenue,High Court Bldgs, Hyderabad (OUT)

3) 2 CD copies.